

**CHILDREN EMPLOYED IN AGRICULTURE
NEED STRONGER LAWS TO PROTECT THEM
AGAINST HAZARDOUS WORKING CONDITIONS**

Farmworker Justice Fund, Inc.
December 4, 2003

Agriculture is one of the two or three most dangerous industries, but the existing child labor law has fewer protections in agriculture than in any other industry.

There are four main problems with regard to children working in agriculture in the existing federal law (the Fair Labor Standards Act).

I. *Minimum Age for Hazardous Work.* In jobs that are particularly hazardous for children, the minimum age for employment in agriculture is only 16 years, whereas in every other industry the minimum age is 18 years. The existing law needs to be amended to raise the minimum age for hazardous jobs in agriculture to 18 years. Moreover, the listing of jobs that are considered particularly hazardous needs to be thoroughly reviewed and revised; the last changes in the listing were made over 30 years ago. The National Institute for Occupational Safety and Health (NIOSH), in a detailed report published in May 2002, recommended numerous changes in the listing of hazardous jobs, and the U.S. Department of Labor (DOL) should take immediate steps to make changes.

II. *Minimum Age for Non-hazardous Work.* In other jobs (that is, those that are not considered particularly hazardous), the normal minimum age for employment in agriculture is 14 years, whereas in every other industry the normal minimum age is 16 years. In agriculture there are many exceptions to the age 14 minimum, with the result that children as young as 10 years old are permitted to work. Outside of agriculture there are very few exceptions to the normal age 16 minimum age: children of age 14 and 15 can work only in certain limited jobs in retail, food service and gasoline service establishments. The existing law needs to be amended to provide greater protections for children in agriculture who work in non-hazardous jobs

III. *Restrictions on Hours of Work.* In agriculture the only restriction on working hours is that children cannot work during school hours. Apart from this requirement, there is no limit on how early in the day children have to start work or how late in the day they have to work, and not even any limit on the number of hours they can work during the day. As a result, children as young as 14 (and, because of various exceptions, some children as young as 10) can be forced to work long hours in agriculture. Outside of agriculture, there are far greater hours-of-work protections for child workers; those 14- and 15-year-olds as described above who are permitted work cannot work during school hours, and in addition they cannot work before 7 a.m. or after 7 p.m. (after 9 p.m. in summer), and they cannot work more than 3 hours on a school day or more than 18 in a

school week, or more than 8 hours on a non-school day or more than 40 hours in a non-school week. Children in agriculture need more restrictions on hours worked, not only for their health and well-being, but also so that work does not interfere with their schooling.

IV. *Penalties.* When an employer violates the existing federal child labor law, only the U.S. Department of Labor (DOL) has the authority to proceed against the employer. The law does not provide any remedies for the child or his or her parents. In order to improve enforcement of the law, this additional remedy -- a private right of action -- needs to be added to existing law. Moreover, the civil money penalty that DOL currently has the power to impose needs to be increased in order to induce greater compliance with the law. There is no minimum civil penalty now, and the maximum civil penalty is only \$10,000 for each employee who experiences a violation. There needs to be a minimum civil penalty established, and the maximum civil penalty needs to be increased.

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For more information about the hazards to children employed in agriculture and a detailed explanation of the child labor law, see the Farmworker Justice Fund's report, "The Ones the Law Forgot: Children Working in Agriculture," on the FJF Web site, www.fwjjustice.org. On the home page click on "Safety & Health"; when the next page appears, click on "Go to child labor."

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